

AMENDED IN ASSEMBLY JULY 3, 2008

AMENDED IN ASSEMBLY JUNE 12, 2008

AMENDED IN SENATE MAY 6, 2008

**SENATE BILL**

**No. 1613**

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**Introduced by Senator Margett**

February 22, 2008

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An act to ~~amend Section 136.5 of~~ *add Section 136.6 to* the Streets and Highways Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1613, as amended, Margett. Department of Transportation: contracts.

Existing law generally requires contracts for public works to be awarded pursuant to various procedures in the State Contract Act. Existing law exempts certain types of contracts awarded by the Department of Transportation from the State Contract Act, including contracts for major damage mitigation, equipment leasing or renting, and removal or relocation of structures or improvements on highway rights-of-way. These exempt contracts are generally required to be awarded to the lowest responsible bidder after competitive bidding on any reasonable notice prescribed by the department, but only if the estimated amount of the contract exceeds \$2,500. Exempt contracts up to and including \$2,500 are not subject to those alternative bidding procedures.

This bill would provide that exempt contracts up to and including \$25,000 for the leasing or renting of operated heavy highway equipment for state highway maintenance purposes are also not subject to those alternative bidding procedures.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 136.6 is added to the Business and  
2     Professions Code, to read:

3     136.6. (a) The department may enter into contracts not  
4     exceeding twenty-five thousand dollars (\$25,000) for the leasing  
5     and renting of operated heavy highway equipment for state  
6     highway maintenance purposes, which contracts are not subject  
7     to the State Contract Act pursuant to subdivision (a) of Section  
8     136.5, and the department is not required to comply with the  
9     procedures described in subdivision (a) of that section relative to  
10    those contracts. Contracts exceeding twenty-five thousand dollars  
11    (\$25,000) for the leasing and renting of operated heavy highway  
12    equipment for state highway maintenance purposes shall be subject  
13    to the procedures described in subdivision (a) of Section 136.5.

14    (b) For purposes of this section, “operated heavy highway  
15    equipment” shall mean bulldozers, grinders, loaders, pavers,  
16    oilers, rollers, excavators, truck tractors and trailers, fork lifts,  
17    personnel lifts, sweepers, and water tankers that include within  
18    the leasing or rental costs the cost of the qualified operator of the  
19    equipment.

20    (c) This section shall not apply to contracts for the leasing or  
21    renting of operated heavy highway equipment for emergency work,  
22    which are governed by subdivision (b) of Section 136.5. This  
23    section shall not apply to the leasing or renting of operated heavy  
24    highway equipment to be utilized for new highway construction.

25    ~~SECTION 1. Section 136.5 of the Streets and Highways Code~~  
26    ~~is amended to read:~~

27    ~~136.5. (a) The contracts referred to in Sections 135, 136, and~~  
28    ~~136.1 are not subject to the State Contract Act (Part 2 (commencing~~  
29    ~~with Section 10100) of Division 2 of the Public Contract Code).~~  
30    ~~Except for emergency work of the type described in subdivision~~  
31    ~~(b), whenever the estimated amount of a contract exceeds two~~  
32    ~~thousand five hundred dollars (\$2,500), it shall be awarded to the~~  
33    ~~lowest responsible bidder, after competitive bidding on any~~  
34    ~~reasonable notice that the department may prescribe. Posting of~~  
35    ~~notice for five days in a public place in the district office within~~

1 which the work is to be done, or the equipment used, is sufficient.  
2 Those contracts shall be subject to the applicable payment bond  
3 provisions of Chapter 7 (commencing with Section 3247) of Part  
4 4 of Division 3 of the Civil Code. The department may require  
5 faithful performance bonds when considered necessary. The  
6 advertisement for each contract shall state whether or not a bond  
7 shall be required.

8 (b) In cases of emergency work necessitated by the imminence  
9 or occurrence of a landslide, flood, storm damage, accident, or  
10 other casualty, tools or equipment may be rented for a period of  
11 not to exceed 60 days without competitive bidding, and the  
12 department may waive the requirements of Chapter 7 (commencing  
13 with Section 3247) of Part 4 of Division 3 of the Civil Code to the  
14 extent that a contractor may commence performance of the work  
15 under the contract for the rental of tools or equipment prior to  
16 filing a payment bond with the department. In that case, no  
17 payment shall be made to the contractor until a payment bond  
18 covering all work of the contract is filed with the department.

19 (c) The department may enter into contracts not exceeding  
20 twenty-five thousand dollars (\$25,000) for the leasing or renting  
21 of operated heavy highway equipment for state highway  
22 maintenance purposes, which contracts are not subject to the State  
23 Contract Act pursuant to subdivision (a), but the department is not  
24 required to comply with the procedures described in subdivision  
25 (a) relative to those contracts. Those contracts exceeding  
26 twenty-five thousand dollars (\$25,000) shall be subject to the  
27 procedures described in subdivision (a). For purposes of this  
28 subdivision, "operated heavy highway equipment" shall mean  
29 bulldozers, grinders, loaders, pavers, oilers, and rollers that include  
30 within the leasing or rental costs the cost of the qualified operator  
31 of the equipment. This subdivision shall not apply to contracts for  
32 the leasing or renting of operated heavy highway equipment for  
33 emergency work, which are governed by subdivision (b). This  
34 subdivision shall not apply to the leasing or renting of operated  
35 heavy highway equipment to be utilized for new highway  
36 construction.